

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES

Call to Order: By **CHAIRMAN EDITH CLARK**, on February 14, 2003 at 8:12 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Edith Clark, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Emily Stonington (D)

Members Excused: Rep. Dick Haines (R)

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp refers to material below it.

Committee Business Summary:

Hearing & Date Posted:	Eastmont Closure
	Childcare Funding
	MTAP
	Children's Mental Health
Executive Action:	Motion to draft committee bill

HEARING ON EASTMONT CLOSURE

{Tape: 1; Side: A; Approx. Time Counter: 1.8 - 2.7}

Gail Gray, Director of the Department of Public Health and Human Services (DPHHS), stated her understanding that the decision to close Eastmont creates a difficult situation for the people of Glendive and for the Department. She expressed her appreciation for her staff in the Division and in Operations in Technology and the good work they had done in a short time to bring a proposal together. She added that she believes that they will have numbers which will please the Subcommittee.

{Tape: 1; Side: A; Approx. Time Counter: 2.7 - 3.7}

SEN. KEENAN offered information on the background of the mental health system in Montana prepared by AWARE, Inc. He added that he had pondered their discussion of the previous day with regard to intergovernmental transfer (IGT) and how money is rolled through and loses its identity as Medicaid money, and he suggested that there is potential that should they get \$2 million in general fund or \$1 million general fund and \$1 million county funds and match that up, they may have the \$8 million for pharmacy.

EXHIBIT (jhh33a01)

{Tape: 1; Side: A; Approx. Time Counter: 3.7 - 22}

Joe Mathews, Administrator of Disability Services Division (DSD), distributed a proposal for closure of Eastmont Human Services. He reviewed the population figures at Eastmont and Montana Developmental Center (MDC) and the process that they would go through to place people in group homes, supported living, or the institution. He reviewed the funding they would need in the client benefit package for those who would be moved into group homes and supported living. He went over the funding needs for: operation of the facility through December and for maintenance through the biennium; termination payouts for employees' sick leave and vacation; six months of health insurance; early retirement purchase option for 13 employees; and an incentive package of \$5,000 per person to entice employees to remain working at the facility until residents are moved. The incentive package and final plan would need to be negotiated with the unions.

EXHIBIT (jhh33a02)

{Tape: 1; Side: A; Approx. Time Counter: 22 - 30.4}

Gail Briese-Zimmer, DSD, distributed the budget and its net impact for the closure of Eastmont. Scenario A reflects the Executive Budget, and Scenario B reflects the current

Subcommittee Budget. If there is a final decision to maintain both facilities, then they would need the Governor's budget level. The net budget impact of scenario A is a \$4 million savings of general fund over the biennium, and annualized for the following biennium it would be about \$6 million. Under both scenarios, there are several items that are one-time-only costs such as building the group homes and employee incentive packages which are not reflected in FY05. There is also \$40,000 built in for the last half of FY04 to maintain the facility if it is to remain vacant. Under Scenario B, there is significantly less in dollar savings for the biennium. It would be only about \$140,000 for the biennium, but annualized beyond the 2005 biennium, it would be \$2.5 million.

EXHIBIT (jhh33a03)

Ms. Briese-Zimmer then went over projected amounts to: maintain the facility at Eastmont through the end of December; continue maintenance and heat of the building throughout the biennium; move the individuals from Eastmont to MDC; move four individuals out of MDC into the community; and place six individuals in the Glendive group home. She reviewed the decision packages they would need should the Subcommittee decide to maintain both facilities on the final page of Exhibit 3.

{Tape: 1; Side: A; Approx. Time Counter: 30.4 - 34.8}

Mr. Mathews added that the Developmental Disabilities program has always believed in moving individuals into community services and doing it at a reasonable pace as required by Olmstead. This is a start at getting people into the community and looking into the future. In order to do the Olmstead plan properly, they will need to continue this. With respect to residential facilities, the Division's long-term vision is to help prepare people for community living so that individuals can be moved into the situation that best fits their needs.

Responding to a question from **SEN. STONINGTON** regarding the long-term vision for Boulder, **Mr. Mathews** said that until a month ago, they had felt that they had one. When the federal reviewers came in and described the conditions they require for residential care to be paid for by Medicaid, it completely turned them upside-down. They will work hard to ensure that those who can be served in the community, will be served in the community, but there are also individuals who can not and may not be well-served in the community. They are now faced with a situation where some individuals may not be funded any longer by Medicaid. There are individuals who may need A level of service which Medicaid may no longer pay for, and they will need to decide where those individuals will be served. They are served at MDC now.

{Tape: 1; Side: A; Approx. Time Counter: 34.8 - 42.7}

SEN. KEENAN asked if those who are losing Medicaid eligibility are doing so because the federal government determined that they do not need to be in that facility. **Mr. Mathews** said that the federal reviewers have determined that, unless people meet certain standards for activities of daily living, the Medicaid portion of this should not be paid for in a residential program. It does not mean that they do not need services, but the federal reviewers do not think that this is what Medicaid should be doing. He believes that a more restrictive definition of what Medicaid will pay for is coming, which could also impact the community waivers in the future. The goal for this Division is to bring people into the community on the waiver and serve them with Medicaid funds. The reviewers have gone, and they will provide their recommendation to Centers for Medicare and Medicaid Services (CMS) and then let him know how many people will be dropped. He estimated that 15 to 30 individuals will lose Medicaid.

{Tape: 1; Side: A; Approx. Time Counter: 42.7 - 48.9}

Responding to questions about closure and facility ownership from **SEN. STONINGTON, Director Gray** said that the State Land Board owns the facility. Closure is scheduled for December 2003.

Ms. Briese-Zimmer explained for **REP. JAYNE** that since there will be one-time-costs in 2004 which will be gone in 2005, 2004 is not a true representation of the actual savings. FY05 is a better representation of the annual savings. They took the 2005 general fund and doubled it to get a truer perspective of the savings beyond 2005.

{Tape: 1; Side: B; Approx. Time Counter: 1.4 - 8.8}

Joe Williams, Department of Corrections (DOC), expressed his appreciation of the abilities of Sylvia Hammer, the current superintendent of Eastmont. He stated that DOC is ready to present to the community of Glendive an option for a chemical dependency program, which is an expansion of the program provided in Butte through the Community Corrections and Counseling Services Incorporated. **Mr. Williams** said that he and Mr. Thatcher of the Connections program in Butte had presented proposals for a 40, 50, and 60 bed chemical dependency program called Corrections Connections to officials from Glendive. The program treats offenders sentenced directly from court or those granted parole from prison who must have a 60-day chemical dependency treatment program before being sent to a pre-release center. The offenders would undergo 10 to 12 hours of treatment per day and would remain at the facility at all times, so there would be no competition for jobs in the community of Glendive. He said that they could be ready to go with this by December, but

they would like an invitation from the community of Glendive to discuss this with them. DOC does not go to communities in the State where it is not invited. There were some totally false rumors that they were going to open a medical parolee center with sexual offenders and HIV positive individuals there, but the community need not worry about such a prospect.

EXHIBIT(jhh33a04)

Mr. Williams reviewed most aspects of the chemical dependency program. He acknowledged that Eastmont is not listed as a secure custody facility, and They do understand that the facility is located next to a residential neighborhood, and that normally offenders in this type of program are not the sort who will run from the facility and cause trouble. He provided information on Mr. Thatcher's professional history and that of his organization and said that it is a well-run program. **Mr. Williams** added that he was under the impression that the Glendive officials were impressed with their presentation, and he felt that they had answered many of their questions. He concluded that the Glendive officials will come to Butte next week and tour the Butte pre-release and Corrections Connections program.

{Tape: 1; Side: B; Approx. Time Counter: 8.7 - 11.7}

SEN. STONINGTON asked **Mr. Williams** how many contacts he had had in Glendive, and **Mr. Williams** said that they had not gone to Glendive, yet. The presentation was made to the mayor, the county commissioner, and the public works director. They sent their proposal back with them to Glendive and asked them to discuss the proposal with the community, and they would like to be invited to discuss this with the community, as well. This move will help DOC because the more offenders that they can get into community settings, the fewer are backed up in institutions. The Dawson County Regional Prison is in Glendive already, so the people can see how a corrections facility is run.

Mr. Williams went on that there are many offenders from eastern Montana in the Butte or Great Falls pre-release because there is no pre-release facility available in the eastern part of the state, so this would allow such individuals to be located near family and also to have connection with probation and parole.

{Tape: 1; Side: B; Approx. Time Counter: 10.4 - 15.7}

Responding to questions from **SEN. KEENAN** regarding the numbers involved, **Mr. Williams** said that they are looking at \$1.2 million for up to 16 offenders. They are requesting no more money in their budget other than the executive request. They can do this within the budget amount. Roughly 80 to 85 percent of offenders have a chemical dependency problem, and providing effective

treatment in a community makes for a better chance of lowered recidivism and lower cost to the State. The cost is about \$60-\$63 per day per individual for a 60-day program. Corrections Connections is a private non-profit corporation so the full-time equivalents (FTE) would not be state employees. They would require 22 FTE for a 40-bed facility, 25 FTE for a 50-bed facility and 30 FTE for a 60-bed facility. The starting wage at Corrections Connection is roughly \$7.50 per hour, and for chemical dependency counselors, it would be \$36,000 to \$40,000 per year. Another benefit to the facility being in Glendive is that the community college is doing training on chemical dependency.

{Tape: 1; Side: B; Approx. Time Counter: 15.7 - 20.9}

Responding to questions from **REP. JAYNE** about the savings to DOC, **Mr. Williams** said that there is \$1.4 million that he will not have to spend in hard cells in the next budget in two years. There is currently a waiting list of 80 individuals for those who are going to do the program in Butte. The waiting list backs up the system because unless they get into the program they are taking up a hard cell bed in prison; then the county jails back up, and he cannot get them moving because there are not enough community corrections facilities. He said that they do have \$1.4 million for their use, but that it is a deferral rather than a reduction. He would not be paying \$52 or \$53 a day to a regional or private prison for a lengthy stay, but would be paying \$60 per day for two months to a community corrections program. The savings is in the length of incarceration.

Responding to follow-up from **REP. JAYNE** regarding the chemical dependency program in the prison, **Mr. Williams** said that in 1995 there was a felony driving under the influence (DUI) conviction round-up, which caused a huge problem in the system. Those DUI offenders were scheduled to be released sooner than others and jumped to the head of the pack for treatment. Other offenders with chemical dependency issues who were not there on DUI conviction, were put on a waiting list. **Mr. Williams** stressed that there are good quality programs at the prisons, but there are so many offenders needing treatment that there is a backlog. There have also been reductions in the regional and private prisons because of the recent budget crisis. He said that as it stands now he will need the approval of the Executive Budget.

{Tape: 1; Side: B; Approx. Time Counter: 20.9 - 23.7}

SEN. STONINGTON asked how far below the Executive Budget his subcommittee was, and he replied that it was between \$5 and \$7 million.

{Tape: 1; Side: B; Approx. Time Counter: 23.7 - 24.2}

Pat Gervais, Legislative Fiscal Division (LFD), said that with the movement of 18 people from Eastmont this spring, DSD was looking at a reduction of staff at the facility April 1, 2003. One thing that they are struggling with is how they will continue to keep the staff, that they had planned to lay off in April, on staff at MDC while transitioning patients from Eastmont.

{Tape: 1; Side: B; Approx. Time Counter: 24.2 - 26.8}

Director Gray commented that they have looked at several options for use of the facility, and none are as firm as the DOC proposal. The Department has considered veterans' services, such as domiciliary care, and some respite or adult daycare. That is in the future, and they do not know if they would be approved for it. They have also discussed the Department's need for more chemical dependency beds. They may wish to retain a maximum of ten beds in eastern Montana, and there are some monies in the substance abuse program which could pay for some of this. Their proposals are not nearly as fiscally prepared as is the DOC proposal.

{Tape: 1; Side: B; Approx. Time Counter: 26.8 - 30.2}

CHAIRMAN CLARK asked **Director Gray** to expand on the group home plan for Glendive. **Director Gray** said that they are discussing a group home in the community not for the campus. There would be no problem with finding well-trained staff for such a facility in Glendive. They would probably provide a grant to the community for about \$100,000 for start-up costs, which is built into the budget, and they could be ready to go in six months. They know that there are people who want to remain in the Glendive community so there should be no problem with filling at least one group home. If they put out a request for proposal (RFP), it would be for that community alone. They have talked with the mayor, city officials, county commissioners, lobbyists, and the media, but she emphasized that the discussion must be brought to the community as well. The proposal brought by Joe Williams is much more advanced, probably more viable, and more timely than anything they have come up with yet. She committed to going to Glendive as soon as the Legislature takes their transmittal break.

{Tape: 1; Side: B; Approx. Time Counter: 30.2 - 34.8}

SEN. KEENAN said that they have a committee bill for closing Eastmont and asked if they could include the new use in the committee bill or does he need the Subcommittee's permission to do a bill for the transfer of use to another department. **Ms. Gervais** said that she would consult with legal staff on this. **Lois Steinbeck, LFD**, added that the two potential legal impediments that they would have are whether it fits within the

title of a bill and whether it is still a single subject. The single subject part may be the greater concern. **SEN. STONINGTON** said that it would make the most sense to have a single committee bill, and **Ms. Steinbeck** said that it might be the approach to take. They could request a second committee bill and let the other languish.

{Tape: 1; Side: B; Approx. Time Counter: 34.8 - 44.2}

Motion: **SEN. STONINGTON** moved TO DRAFT A NEW SUBCOMMITTEE BILL WHICH CLOSES EASTMONT AND MAKES IT AVAILABLE FOR OTHER USES.

Discussion:

REP. JAYNE asked how many employees would be affected by closure. **Mr. Mathews** responded that there are 97 FTE, and 110 total staff. In follow-up, **REP. JAYNE** asked if any were trained in alcohol counseling or chemical dependency. **Sylvia Hammer, Superintendent of Eastmont**, said that she really does not know this, but they do have some degree people with psychology and other degrees. There are many long-term employees at Eastmont who have not had other work experience for quite some time. **Mr. Mathews** enumerated the other types of staff. **Ms. Hammer** requested that Eastmont employees be given first dibs at jobs in a new facility. **REP. JAYNE** asked what type of response on the potential closure she has had from the community. **Ms. Hammer** emphasized that the town of Glendive has been very supportive of Eastmont and its present mission. It does not want to see it closed, but if that is the way it is going to be, they will look at other options.

{Tape: 1; Side: B; Approx. Time Counter: 42.8 - 44.2}

Vote: Motion carried 5-1 with **REP. JAYNE** voting no on a voice vote.

{Tape: 1; Side: B; Approx. Time Counter: 44.2 - 49.4}

SEN. KEENAN said that while it has been a difficult discussion, they have known that it was going to happen for a long time. It is his hope that there will be some movement in the Travis D Lawsuit as a result of this action. The discussions that he has had with the Glendive people and county commissioners is that the legislature would make every effort possible to ensure a soft landing for Glendive, but they are not in the position to provide golden parachutes. He suggested that **REP. LEWIS's** early retirement bill may have a mitigating effect on this as well.

{Tape: 2; Side: A; Approx. Time Counter: 0.3 - 1.8}

Acknowledging that she does not deal with intent often, **Ms. Steinbeck** asked if it was appropriate for Corrections Connections or another employer to try to give preferential treatment for

Eastmont employees in the bill. It was suggested that, perhaps in a precursor to the bill such as a whereas, or in a joint resolution, the Subcommittee could indicate legislative intent and its concern for the economic well-being of the community. It was also suggested that the Subcommittee should include recognition of the commitment of the community and the people who had cared for and done such a good job of caring for the people at Eastmont for so long. **Ms. Gervais** said that she is not certain, but would discuss this with legal staff and see what is recommended. **CHAIRMAN CLARK** said that if they could not do this perhaps they could do a proclamation or something that recognizes the excellent care that people have received and the excellent staff at Eastmont.

{Tape: 2; Side: A; Approx. Time Counter: 1.8 - 3.7}

REP. JAYNE expressed disagreement with this entire decision. She remains unconvinced that the people in Eastmont will receive the care and treatment that they need if moved into the community.

DISCUSSION ON CHILDCARE

{Tape: 2; Side: A; Approx. Time Counter: 3.7 - 11}

Ms. Gervais distributed a packet of letters from Montana Advocacy Program (MAP) for Subcommittee consideration (Exhibit 5). She then distributed and explained a comparison of childcare funding in the FY02 base and 2005 biennium Executive Budget (Exhibit 6). The Executive Budget for childcare in 2004 was \$22.2 million: \$2.2 million in general fund and \$20 million in federal funds. The FY05 budget takes the 2002 base and adds in the decision packages for FY05 to arrive at the Executive Budget for 2005, which is \$21.8 million. The biennial difference in the Human and Community Service Division (HCSD) is a \$953,000 reduction in general fund and increases in federal matching funds, federal mandatory funds, a decrease in the federal discretionary fund, and an increase in administrative costs for a net decrease of \$7.4 million in federal funds, which increases the total biennial decrease in the Executive Budget to \$8.3 million. To arrive at the funding at the 2002 level, the Child Protective Service (CPS) reduction of \$650,000 general fund and \$92,000 must be included in the base. The funding above the Executive Budget needed to maintain services at the FY02 level is \$9.1 million as compared to the Executive Budget.

EXHIBIT (jhh33a05)

EXHIBIT (jhh33a06)

Ms. Gervais said that she had discussed this with the Department, and it is now concerned that it will not see all of the federal increases included in the Executive Budget. They have estimated

that there is \$1.8 million in matching funds that they will not realize, \$2 million in federal mandatory funds, and \$2 million in federal discretionary funds for a total of \$5.9 million in federal funds included in the Executive Budget that they are concerned will not be appropriated or realized at the federal level. If the \$5.9 million is added in, the amount needed to maintain services at FY02 base level is \$15 million for the biennium - \$6.4 million in FY04 and \$8.6 million in FY05. This would be the additional funding that they would need to appropriate if they wish to maintain childcare funding at the 2002 base level. She SUGGESTED that, if they were to choose to increase the appropriation for childcare, the Subcommittee may wish to include language which would condition the appropriation such that it could be reduced by any increases in federal funds that are realized. If discretionary funds do increase by \$2 million over the next biennium, the additional appropriation would be decreased by \$2 million.

{Tape: 2; Side: A; Approx. Time Counter: 11 - 14.3}

SEN. STONINGTON asked the Department to explain again why they think those funds may not appear. **Mr. Hudson** said that they had included those amounts in their budget in case Congress reauthorized the child development funds. There has not been much movement in Washington, DC, on child development funding, and it does not look like Congress will authorize an increase in this program. **SEN. STONINGTON** stated that she views childcare as critical in the entire welfare system. She offered her opinion for discussion that the Subcommittee priorities should be: to ensure that there is adequate funding authority so that if the other federal funds materialize, they can be utilized; to look for other money in any place they can to bring the deficit up; and to make childcare funding a high priority.

SEN. STONINGTON then asked what happened to the Employment Security Act (ESA) money that they had tried to appropriate.

CHAIRMAN CLARK said that the money had gone away, she was not sure where, but the last time she checked it was gone. **Ms. Steinbeck** said that she would try to find out for the Subcommittee.

{Tape: 2; Side: A; Approx. Time Counter: 14.3 - 17.2}

Bob Andersen, Office of Budget and Program Planning (OBPP), questioned whether these funds were ever available, and **Ms. Gervais** said that there was concern at the Department of Labor about meeting their unemployment insurance statistical performance measures, and there was some feeling that funds could not be diverted because of that. She said that she will do further research on what has happened in that subcommittee with regard to that funding. **SEN. STONINGTON** asked if Project

Challenge is such a sacred cow that they dare not touch it. **Ms. Gervais** replied that she was told that it had been funded out of general fund rather than ESA in order to make ESA available for other purposes. She said that she would verify this. She added that LFD staff has not identified any other sources of matching funds other than general fund, although there is potential for a small amount of Kindergarten funds to be used as matching funds if an agreement can be reached with the schools.

{Tape: 2; Side: A; Approx. Time Counter: 17.2 - 18.8}

Ms. Steinbeck commented that if the Subcommittee appropriates federal funds at the level currently anticipated, the Department can always add additional federal spending authority by a budget amendment. When they have the discussion on refinancing, one thing that they will discuss is the statute that requires agencies to spend nongeneral fund first. One of the policy decisions that this Subcommittee always faces is how much extra federal authority they should put in the budget because it makes that statute ineffective if there is excess federal authority.

{Tape: 2; Side: A; Approx. Time Counter: 18.8 - 22.6}

Responding to a question from **SEN. STONINGTON** with regard to childcare decision packages, **Ms. Gervais** said that the Subcommittee did not take action on the reduction and left the \$7.6 million of federal funds in. Currently, their action has the ESA funds in the budget to replace the general fund spending reductions, and they will need to revisit the \$3.2 million of general fund.

SEN. STONINGTON remarked that the Subcommittee needs to decide whether it will move general fund into the hole and make the case for it. **Ms. Steinbeck** said that although it would be a limited source, the Subcommittee could always look at funding switches that fit within the intent of certain tax revenues to serve certain groups and fund existing general fund with a funding switch. This would work, particularly with Montana Telecommunications Access Program (MTAP), which they will be discussing later. Now that they have moved into Developmental Disability Services (DSD) perhaps there are some things in the Vocational Rehabilitation (VR) program that would fit for some of those activities. **SEN. STONINGTON** said that they will have a battle on their hands just to keep the Montana School for the Deaf and Blind (MSDB) out of MTAP money. She added that they need to decide whether they can make the case for general fund or just tell people that not only will they not receive the amount of discretionary funds they thought they would lose, but they will lose \$2 million more.

{Tape: 2; Side: A; Approx. Time Counter: 22.6 - 24.6}

Director Gray said that the Department would like to be on record that it does not think a diversion of MTAP money would be appropriate on this at all, and it does not support such an action. There is a declining balance which is why they have discussed a reduction in eligibility.

{Tape: 2; Side: A; Approx. Time Counter: 24.6 - 30.3}

Ms. Gervais distributed and reviewed language FOR POSSIBLE INCLUSION in HB 2 and the fiscal report which would indicate the intent with regard to sustainability of benefit levels and what would potentially trigger a reduction in the cash benefit level. Executive action on this is scheduled for Monday.

EXHIBIT (jhh33a07)

DISCUSSION ON MTAP

{Tape: 2; Side: A; Approx. Time Counter: 30.3 - 39.5}

Ms. Steinbeck stated that the Subcommittee has taken little or no action on MTAP decision packages. She explained that the main issue is a structural imbalance in the program. The federal government requires the state to fund the cost of relay services for certain disability groups, and the state statutes identify hearing disabled and mobility impaired individuals. Current statute provides for equipment to be provided to persons up to 400 percent of the poverty level. For individuals up to 250 percent of the poverty level there is no copay, under 200 percent of the poverty level there is no copay, and between 250 and 400 percent there is supposed to be a copay for equipment on a sliding fee scale. The three major changes in the Executive Budget are: new improved equipment, a new video relay service, and the Federal Communications Commission (FCC) will rule later this year whether states must provide video relay capability. The costs for the video relay services are estimated to range from \$5 to \$17 a minute. The Executive Budget does include a decision package for video relay. In discussions about the program, the Subcommittee recommended a Subcommittee bill to change eligibility to a flat 200 percent of poverty without copays, but those over 200 percent of poverty could not receive equipment. The Subcommittee decided to let that bill die and amend a bill that is being presented by **REP. JACOBSON, HB 266**.

SEN. STONINGTON said that Energy Committee heard the bill yesterday, and the amendment was mentioned. **Ms. Steinbeck** said that it was her understanding that the Subcommittee had decided that if HB 266 were amended to do away with the copay and establish equipment eligibility at 250 percent of poverty, it

would suffice for the Subcommittee action to tie it to what it will do in HB 2.

Given that, **Ms. Steinbeck** said LFD staff had requested that the MTAP people come prepared to discuss the changes that would be included in the budget request due to the potential amendments. She said that she does not know what whether the eligibility technician request would be withdrawn or not. The program had not implemented the copay requirements, but does do financial eligibility. If they already do income eligibility, she said that she would question whether they need an additional position to do this. An LFD staff concern would be that equipment included in the budget is sufficient to fund up to 400 percent of the poverty level. Another staff issue is that the video relay system capability is presented as if the decision were made at the beginning of the fiscal year, and it will not be made until the middle of the fiscal year.

{Tape: 2; Side: A; Approx. Time Counter: 39.5 - 43.1}

SEN. STONINGTON reviewed the discussion that occurred in the Energy Committee around HB 266. In the special session, **SEN. STAPLETON** had diverted \$57,000 from MTAP to the School for the Deaf and Blind. While that language is being struck in this bill, it is her understanding that the money for MSDB has not been backfilled with general fund, and the Director for MSDB was opposing the bill on those grounds. Part of the issue is that they agreed to amend equipment purchases down to 250 percent of poverty, and the MTAP program is making the case that they can sustain a fairly adequate ending fund balance. If that is true, there will be enough of an ending fund balance that others will see it as money for the taking. She questioned whether it is fair to reduce the equipment purchases to 250 percent of poverty and create this perception. She also questioned whether this is the intent of the legislation and the fees that are paid. She said that she would like Subcommittee discussion on this.

Director Gray concurred that it is unfair to reduce the benefits of the people for whom the program was established in order to pay something else. A one-time use in an emergency is one thing, but this appears to be an ongoing appropriation for MSDB. **Mr. Chappuis** said that the legislature has tried to stabilize the program through the 250 percent of poverty eligibility. If any more money comes out of the program, they will end up where they were when there was a 400 percent of poverty rate, and this is unfair to long-range management of the program.

{Tape: 2; Side: A; Approx. Time Counter: 43.1 - 49.5}

Ms. Steinbeck said that she has been unable to determine if MSDB is drawing down the maximum amount of Medicaid reimbursement that

it could. She suggested that perhaps MSDB could use federal Medicaid match under the school funding initiative in Medicaid, where services that are Medicaid eligible can be reimbursed at the Federal Medicaid Assistance Percentage (FMAP) rate. She suggested that Department people contact the people from MSDB and see if perhaps there is an opportunity to use federal Medicaid match for expenses that may not be offset right now, thereby negating the need for MTAP revenue. **Director Gray** said that this is a good point, assuming that these children are Medicaid eligible. She agreed that they should check into this.

{Tape: 2; Side: B; Approx. Time Counter: 0.1 - 2.8}

Continuing with the discussion on MTAP and HB 266, **SEN.**

STONINGTON said that in the 2001 session, language was included in the statute to say that an acceptable purpose for the use of these funds was to fund early diagnostic equipment for hospitals to detect hearing impairment, and this language is also being struck in HB 266. MSDB is claiming justification for receiving the \$57,000 because they were going to provide an audiologist to do outreach services for this purpose around the state. The \$100,000 that was authorized for this purpose has been expended so that language under which MSDB was originally given the money is no longer applicable. MSDB is claiming that the money they would take from the program would be used to hire an audiologist to provide services to families around the State for the transition from early diagnostics to actually handling a hearing impaired infant. There is a legitimate question as to whether this is a valid use of the money established for relay services and equipment.

{Tape: 2; Side: B; Approx. Time Counter: 2.8 - 4.8}

Kryss Kuntz, Administrator of the MTAP program, said that if that language is stricken from HB 266, and MSDB were left in the bill; it states clearly that MSDB could only use the funding to: furnish specialized telecommunications equipment to meet the needs of persons with disabilities or provide telecommunications relay service. **Ms. Steinbeck** said that the 250 percent of poverty would apply there as well. Including MSDB, without stating the purpose for which they may use it and without excluding persons from the 250 percent of poverty, would confuse things considerably and make it very difficult to tell if the funds were being used appropriately. Perhaps the best approach would be to try to make them whole with Medicaid funds. She added that with respect to the information **SEN. STONINGTON** had provided, this information was not mentioned during special session. She added that when she heard the discussion in terms of hiring an audiologist, it was a straight general fund funding switch with the understanding that it would be used for

equipment. The \$100,000 for hospital equipment was anticipated by this Subcommittee in 2001 as a one-time purchase.

{Tape: 2; Side: B; Approx. Time Counter: 4.8 - 5.4}

SEN. STONINGTON said that the conversation had been very helpful, and she would present this information to the Energy Committee when the bill comes up for executive action. She asked for the current information on expenditures if the legislature does the restriction to the 250 percent level of poverty, and how it will impact the ending fund balance.

{Tape: 2; Side: B; Approx. Time Counter: 5.4 - 7.2}

Ms. Steinbeck said that since the Subcommittee does not know whether the video relay will be approved as a required service by the FCC, they always have the choice to line item and restrict that appropriation. It could make the appropriation from the amount that the executive has requested and restrict it for the use of video relay. Similarly, the Subcommittee could accept the executive request for equipment and line item it so that it was only for equipment. This action would show the appropriations coming out of the ending fund balance and would ensure that no more was expended from that appropriation than was legitimately allowable under statute.

{Tape: 2; Side: B; Approx. Time Counter: 7.2 - 9.2}

Mr. Andersen referred to earlier discussion on ESA and said that he had checked on this. The ESA funds balanced at the end of this biennium at \$1.5 million and at the end of FY05 it is \$42,000. In the Labor Subcommittee, they moved Project Challenge out of that funding source and moved several other things that had previously been in the Department of Labor general fund into it. The funding is no longer there.

DISCUSSION ON CHILDREN'S MENTAL HEALTH SERVICES

{Tape: 2; Side: B; Approx. Time Counter: 13.1 - 25.3}

Director Gray presented the Department proposal on Children's Mental Health Services (CMHS) (Exhibit 8). She said the Department had had significant discussions on the Subcommittee motion that CMHS should be moved from Addictive and Mental Disorders Division (AMDD) to Child and Family Services (CFS) Division. The Department has met several times with children's mental health providers, lobbyists for children and mental health, advocates for children's services, OBPP, legislative fiscal staff, representatives of the Governor's office, and more. They discussed six different options initially, and they discussed three of those options more intensely. She emphasized

that all of the options would have worked with significant resources and strong commitment by leadership at all levels.

EXHIBIT (jhh33a08)

Director Gray recommended that they split Health Policy and Services Division (HPSD) into two divisions: Medical Services Division and a Health Policy Division. The children's mental health services would be placed in the Medical Services portion, and would be a bureau or section depending on final reorganization recommendations. The proposal is just a preliminary at this point, so there are details that they do not have at this time. They have divided the funding between the divisions. Success of the proposal depends on some staffing, so they are recommending two additional FTE staff positions for a total of twelve; seven for the adult program and five for the children.

Director Gray concluded with a reiteration of the recommendation for the program change and the need for some more resources. Referring to the proposal (Exhibit 8), she reviewed the basic objectives, the placing of the new program, and the budget.

{Tape: 2; Side: B; Approx. Time Counter: 25.3 - 30}

Referring to the proposed Medicaid redesign study that the Department will be going through, **SEN. STONINGTON** asked if this is the best guess at a structure that would work over the long term. She would not like them to commit to something now if it were going to be changed in two years due to new information.

Director Gray said that regardless of where the program was placed, it needed to have separate status as a group. In their discussion, they recognized that there would be changes coming out of the Medicaid redesign study, but their object was a group or section that could be moved in its entirety wherever the legislature or design study determined it should go. **SEN. STONINGTON** asked if the planning within this plan would be lost if they moved it due to the redesign, and **Director Gray** said that it would not be lost. If they decided that they wanted a children's division, they would pick this entity up and move it; or if they wanted it to be in AMDD, they would pick it up and move it. She said that they just want to let the Subcommittee know that regardless what they do now, there will be changes in a couple of years.

{Tape: 2; Side: B; Approx. Time Counter: 30 - 36}

Continuing the discussion, **Mr. Chappuis** provided background on the reorganization that had taken place in 1995 which set up several new divisions. He then said that there are high cost services in this program that need to be coordinated with other

divisions since they are approvers of those services. They will need to formalize the approval and payment aspects of this, but the proposal will give them a framework within which to work. Medicaid Primary Healthcare Policy deals with most children's services for about 50,000 children. These children will all move to this division, and it is the Department hope that they will make the focus on children here, not just mental health services for children, but all services for children. This program will have the largest amount of funding, so when cuts occur, they will be spread over a wider base, and within an organization it is easier to prioritize. This proposal will give them the framework to stabilize the program.

{Tape: 2; Side: B; Approx. Time Counter: 36.4 - 40}

SEN. KEENAN thanked the Department for the proposal and said that it is almost what he had in mind. He said that he would like to see children's physical and mental health combined and not two separate programs. It is really important for future generations that they recognize biological brain disorders as well as physical health disorders. He asked how they would break out the Central Medicaid and Medicare Services (CMS) Block Grant, how the utilization review would work, and whether there would be a chemical dependency portion to the program.

Director Gray said that the objective is to stabilize the program and give them an opportunity to do planning. They do not know if this will be a bureau or a section, but they did consider that the CHIP and Children's Special Health Bureau and Children's Mental Health Services Section, listed on Exhibit 8, might be a section within the Medical Services Division.

{Tape: 2; Side: B; Approx. Time Counter: 40 - 49.8}

Referring to the question from **SEN. KEENAN** on utilization review, **Mr. Chappuis** said that 85 percent of the First Mental Health contract was allocated to children's services. They reviewed every contract and figured activity, and then they split the budget based on that activity. **SEN. KEENAN** reviewed the various children's specialists in each of the Bureaus, and he said that he would like to put these children's cost in one funding source. **Director Gray** said that this is where they are headed, but they do not want to move too quickly on this.

{Tape: 3; Side: A; Approx. Time Counter: 0.4 - 3.2}

Director Gray said that they need to work on what will be the best thing for their clients, and this proposal is a platform on which to build, but that they do need some limited resources in the form of two FTE.

SEN. KEENAN continued that they have a heavily regulated system of care, price controls on providers, but there is no accountability for outcome. This proposal will provide a break from children's to adult services, and they will need to consider transition from children's to adult services. With this kind of a break, there is a better opportunity to close some files and focus on recovery services for youth where there is a lack of willingness to stigmatize children with labels. **SEN. KEENAN** added that he would like to see a system in which children who have been in the system have successful recovery and stability so that their files can be closed, and they are not caseloads for the rest of their lives.

{Tape: 3; Side: A; Approx. Time Counter: 3.2 - 6.3}

Mr. Chappuis said that budget problems have hampered the ability of AMDD staff to stabilize the system. The proposal to move children's mental health is a good move, but it is not for lack of trying to stabilize a volatile system on the part of Dan Anderson and Lou Thompson. This proposal will give them a new start and a new mission. He reiterated that they had made every effort to control things that were out of control, and he expressed his appreciation for the efforts of Mr. Anderson and Ms. Thompson. **CHAIRMAN CLARK** offered that the Subcommittee would express those sentiments as well. **SEN. KEENAN** expressed his appreciation for their efforts, but said that he is not trying to win friends but is trying to influence things to make them better. They need to balance the disturbances caused by budget reductions and the resulting changes in policy, provider rates, and systems of care.

{Tape: 3; Side: A; Approx. Time Counter: 6.3 - 7.6}

Director Gray said that they did not mind criticisms if something that comes out of it makes things better for everyone, particularly their clients. She added that **SEN. COBB** has made them believers in outcome measures over the years, and the Department is committed that this program would be driven by outcome measures as well.

{Tape: 3; Side: A; Approx. Time Counter: 7.6 - 11}

Referring to the budget projection in the proposal, **SEN.**

STONINGTON asked what was or was not included in the budget because they have put \$76 million into children and \$30 million in adults which adds up to \$106 million, but her recollection is that they have been discussing \$160 million in the MHP. **Ms.**

Steinbeck said that the adult side would include Medicaid, Mental Health Services Plan, the Behavioral Health Inpatient Facility (BHIF) proposal, and the two institutions.

{Tape: 3; Side: A; Approx. Time Counter: 11 - 13.7}

Mr. Chappuis said that in breaking out the numbers, Becky Becker Graham and Bob Mullen went through every major category within operations. These are the exact figures brought forward through the caseload percentages included in the budget; it also included two FTE, associated rent, and the things that would go toward operations. The FTE would be professional level FTE. Lou Thompson will be staying with AMDD, which will be a tremendous loss of expertise to the new bureau. **Director Gray** added that if the Subcommittee gives them the 2.00 FTE they will not hold them vacant for vacancy savings or anything else.

{Tape: 3; Side: A; Approx. Time Counter: 13.7 - 20.2}

Ms. Steinbeck summarized the pros and cons of the proposal. On the negative side, if they can not find someone as qualified as Lou Thompson in mental health, they will not have that expertise or the integration with adult services that would now be a possibility in AMDD. CMHS would be rolled into a much larger budget which has as many spending pressures as AMDD. The positive would be that no matter where this unit is placed there will be a focus and nexus of emphasis on CMHS. Another positive thing about moving it to a larger Medicaid bureau is that children's funding in this program is largely Medicaid, and this bureau has a vast experience with Medicaid on which to draw. With the children's services here, there are opportunities to expand services and keep the general fund cost contained and to pursue waivers and creative Medicaid financing. If there is any way to use Children's Health Insurance Program (CHIP) funding, it has a more favorable match than Medicaid and the program would be co-located with the CHIP and Medicaid programs. No matter where it is eventually placed, the commitment to bring stability to the system will help a lot. The need for stability was stressed by everyone within the system.

Ms. Steinbeck credited Ms. Gervais with the observation that the Subcommittee is not discussing the audit this year, which was a big issue in 2001. One reason for this is the creation of Fiscal Services Division, which allowed the Department to concentrate its focus on this one area. The current proposal will allow the Department to do that here as well. She added that they are still unsure whether they have a block grant. The MOE for the block grant requires two years of fiscal expenditures for community mental health services. With the \$8 million general fund reduction proposed in the Executive Budget for the MHSP, meeting that MOE, at least for the first year, may be a problem. She said that she does not know if the federal government has ever withheld the block grant from a state, but it is \$1.3 million that may or may not be available for community services. This is in the budget and the Subcommittee has approved it.

{Tape: 3; Side: A; Approx. Time Counter: 20.2 - 23.3}

SEN. COBB went over some of the measures that he is considering to find money to backfill general fund. He said that they will be trying to raise the cigarette tax amount for the veterans' homes. He said that he thinks they may end up with a \$.39 or \$.40 cigarette tax in his bill, and that the bill will stabilize the situation not add new money. The proponents of the bill want a higher tax, and the opponents do not and also addressed the possibility of smuggling, which he does not think will be a problem.

{Tape: 3; Side: A; Approx. Time Counter: 23.3 - 36.4}

Responding to comments by **SEN. KEENAN**, **Ms. Steinbeck** said that the access payment is about equal to the \$4 million amount missing in the pharmacy program. She questioned how much higher the access payment could be. If the access payment could be higher, the Subcommittee could leverage \$1 million in general fund and another \$3 million in federal funds. With \$2 million, they would have the \$8 million back which the executive cut from the MHSP program.

There was more discussion of what the Subcommittee could do with money that might be collected. **Ms. Steinbeck** suggested that she work with **Mr. Chappuis** to see if there are other access payments that could be made in the mental health area and the funds potentially transferred down. **Mr. Chappuis** said that he would be happy to work with **Ms. Steinbeck**.

{Tape: 3; Side: A; Approx. Time Counter: 36.4 - 45}

Ms. Steinbeck updated the Subcommittee on the conference call that **Mr. Chappuis** arranged. States will be able to opt in to a block grant or continue traditional Medicaid, but once the commitment is made, they must stay there for ten years. This is a decision that the Subcommittee may wish to weigh in on. It looks like, if everything goes the way the Bush administration would like it to go, the decision will come up before the legislature will convene in regular session. The block grant is much like the Temporary Assistance to Needy Families (TANF) grant concept, and she cautioned that they no longer think of it in terms of matching. There will be a block grant for mandatory services and mandatory eligibles, and optional services. Under the block grant, more would be given to states up front, but the base year would be federal fiscal year 2002, which is bad news for Montana. Montana experienced many service cuts and was not expanding Medicaid in FFY02. The block grant would be equal to that expenditure plus \$10 million more per year than they spent. At the end of the block grant period, they would be expected to pay it back or the block grant would be reduced proportionally to backfill the front-end loading. The MOE would be inflated at

some rate, and the block grant would be inflated about 9 percent, which is less than healthcare costs nationally and much less than pharmacy.

Mr. Chappuis said that he has noticed in going to meetings in Washington that policy is determined by what is good for the big states like California. Since this is really bad for California, and California does not like it, he does not believe that this will happen in its current form.

{Tape: 3; Side: B; Approx. Time Counter: 0.6 - 2.3}

Ms. Steinbeck said that many things would no longer be funded within this block grant level. She said that what was initially presented as a two percent bump in FMAP -- is not the way to look at it. It could potentially hurt the tribes as well since they do not know how it would work with Indian Health Services (IHS).

Director Gray commented that the words "pay back" were unwelcome to them.

Ms. Steinbeck said that it is unclear if the State would be required to keep the level of spending at a certain amount, whether it would have to backfill with general fund and reduce federal funds, or whether the State would have to give the federal government money. **Ms. Steinbeck** admitted that she was startled that such little thought had been put into a major policy issue and that there was so little ability of those at the federal level to answer even basic questions.

{Tape: 3; Side: B; Approx. Time Counter: 2.3 - 10}

Ms. Steinbeck and **Ms. Gervais** briefed the Subcommittee on issues that they would deal with the next day. **SEN. COBB** went over his proposed plan for the tobacco tax increase and building a package that the legislature will not want to break apart. He mentioned the targeted case management problem and suggested that the Subcommittee give the Department money to sue Medicaid. **Ms. Steinbeck** suggested that they may wish to wait on this until later since they have discussed this with Senator Baucus's office, and they are waiting for some feedback on this. She briefed the Subcommittee on Medicaid requests that had been granted for other states, but not for Montana. One of the policy decisions that the Subcommittee may wish to make is whether it will want to direct the executive to take any particular action or explore opportunities that may open up.

ADJOURNMENT

Adjournment: 11:12 A.M.

REP. EDITH CLARK, Chairman

SYDNEY TABER, Secretary

EC/ST

EXHIBIT (jhh33aad)